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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/524,770	03/14/2000	Rob Myers	80398.P607	7597
7590 09/23/2010				
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EXAMINER				
SALCE, JASON P				
ART UNIT		PAPER NUMBER		
2421				
MAIL DATE		DELIVERY MODE		
09/23/2010		PAPER		

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/524,770
Filing Date: March 14, 2000
Appellant(s): MYERS ET AL.

Eric S. Repogle
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/12/2010 appealing from the Office action mailed 3/11/2010.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 14-19, 45-50 and 76-80 are rejected.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of

rejection to be reviewed on appeal.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

Hendricks et al. (U.S. Patent No. 5,798,785) published August 25, 1998

Goldschmidt Iki et al. (U.S. Patent No. 6,226,444) published May 1, 2001

Barton et al. (U.S. Patent No. 6,233,389) published May 15, 2001

Grossman et al. (U.S. Patent No. 5,907,321) published May 25, 1999

Alexander et al. (U.S. Patent No. 6,177,931) published January 23, 2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 18-20, 23, 25-26, 28-29 and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 5,798,785) in view of Goldschmidt Iki et al. (U.S. Patent No. 6,226,444) in further view of Barton et al. (U.S. Patent No. 6,233,389) in further view of Grossman et al. (U.S. Patent No. 5,907,321).

Referring to claim 16, Hendricks discloses formatting a media signal with content data and with on-site media service data (**see Column 7, Line 50 through Column 9, Line 19 for the headend receiving both content data (television programs) and on-site media service data (program control information signals)**).

Hendricks also discloses broadcasting said media signal to an on-site media system having a dedicated tuning device (**see Figure 1 and Column 9, Line 20 through Column 10, Line 62 for receiving the programming signals at a client device/on-site media system**).

Hendricks also discloses that said on-site media service data allows an off-site broadcaster to remotely control a display of an advertisement on said on-site media system (**see Column 6, Line 3 through Column 7, Line 48 for the operations center creating the on-site media service data, which allows the operations center to remotely control a display of an advertisement to the user's display device (further note Column 19, Line 28 through Column 20, Line 67)**).

Although Hendricks discloses receiving on-site media service data (**see above**), Hendricks fails to disclose that the on-site media service data includes a command that instructs an on-site media system to record the content data without intervention of a user.

Goldschmidt Iki discloses that the on-site media service data includes a command from an off-site broadcaster that instructs an on-site media system to record the content data without intervention of a user (see **Column 5, Lines 16-67 for receiving commands in a transmitted broadcast program that instructs a on-site media system to record a television program and stop recording when a commercial is broadcasted and then continuing to record the television program after the commercial has been broadcasted**).

Goldschmidt Iki also discloses that said on-site media service data further includes metadata that allows the user to locate a specific segment of the content data (the Examiner notes that Goldschmidt Iki not only teaches program indicators (see *Column 5, Line 16 through Column 6, Line 29*), but also teaches another type of metadata in the form of commercial indicators (see *Column 5, Line 16 through Column 6, Line 29*), which allow the system of Goldschmidt Iki to stop recording, as opposed to start recording (*instructed by the program indicators*). Therefore, the commercial indicators allow the system of Goldschmidt Iki to locate (*per user request*) when a commercial will be aired, wherein the commercial is a segment of the content data (*video program being received*). Further note that the system of Goldschmidt Iki further allows the user to select a program to record and further indicate that he/she wishes to record the program without commercials (see *Column 8, Lines 50-60*), therefore allowing the user to locate specific segments (*commercials*) based on the on-site media data instructing the system to avoid recording the commercials, as requested by the user).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the television system and EPG, as taught by Hendricks, to include the data that instructs an on-site media system to record a television program, as taught by Goldschmidt Iki, for the purpose of providing a system that records only the television program the viewer desires without the unwanted commercials (**see Column 1, Lines 7-9 of Goldschmidt Iki**).

Hendricks and Goldschmidt Iki fail to teach that said on-site media system has a dedicated portion of a hard disk for said media signal.

Barton discloses an on-site media system that further includes a hard drive to store media signals (**see Column 3, Line 30 through Column 4, Line 13**), further note that the media signals/movies are stored on various portions of the hard drive, therefore the media signals are stored on a dedicated portion of the hard drive (**the portion used to store a particular movie or movies**). *The examiner notes that the recitation “dedicated” is broad and the claims do not recite how said portion of the hard drive is “dedicated”, therefore the examiner has interpreted a dedicated portion to simply be the portion which stores each particular movie. Even further, the examiner notes that a hard drive inherently contains a dedicated portion because every hard drive contains a table of addresses in a hidden portion of the hard drive (e.g. a FAT table), therefore the portion of the hard drive used to store data and not the hidden portion/address table can be considered the “dedicated” portion.*

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the on-site media system, as taught by Hendricks and Goldschmidt Iki, using the hard disk, as taught by Barton for the purpose of providing a user the ability to simultaneously record and playback TV broadcast programs (**see Column 1, Lines 54-55 of Barton**).

Hendricks, Goldschmidt Iki and Barton fail to disclose that the advertisement is enabled in a transition between two programs during a channel changing event.

Grossman discloses that an advertisement is enabled in a transition between two programs during a channel changing event (**see Figure 2 and Column 2, Lines 30-40**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the recording system of Hendricks, Goldschmidt Iki and Barton, using the advertisement display process, as taught by Grossman, for the purpose of providing the user additional important information, such as public service messages and warnings against smoking, while waiting for a channel change to occur (**see Column 3, Lines 31-45 of Grossman**).

Claim 18 corresponds to claim 16, where Hendricks further discloses that said on-site media service data has interactive options that are responsive to a viewer input on said on-site media system (**see Figures 11a-11d**).

Claim 19 corresponds to claim 16, where Hendricks further discloses that said on-site media system has a resident-software platform for interfacing information

between a content provider, a presentation engine, and a viewer (**see Column 10, Lines 13-46**).

Claim 20 corresponds to claim 16, where Hendricks further discloses that said medial signal is formatted with metadata on a fine-grain basis for intervals shorter than a broadcast program time span (**see Column 20, Lines 16-18 for the metadata identifying advertisements for video programs**).

Claim 23 corresponds to claim 16, where Hendricks further discloses that said on-site media services data includes management information for said on-site media system (**see Table A at Column 20, Lines 32-46**).

Claim 25 corresponds to claim 16, where Hendricks further discloses that said on-site service data includes presentation information (**see the rejection of claim 23**).

Referring to claim 26, see the rejection claim 21 and further note Figure 6.

Claim 28 corresponds to claim 16, where Hendricks further discloses that said on-site media service data provides software updates (**see Column 10, Lines 47-55**).

Claim 29 corresponds to claim 16, where Hendricks further discloses that said on-site service data includes function information that enhances functionality of said on-site media system **(see the rejection of claim 28)**.

Referring to claim 41, Hendricks discloses that the cable headend is an over-the-air broadcaster **(see Figure 1 for receiving television signals over a satellite)**.

Referring to claim 42, Barton discloses that the dedicated portion of the hard disk is dedicated for the off-site broadcaster **(see Column 3, Line 30 through Column 4, Line 2 for recording television signals transmitted over a television broadcast network onto a hard drive, therefore the dedicated portion of the hard drive is dedicated for the off-site broadcast because the television shows transmitted from the broadcaster are stored on the hard drive)**.

Claims 21-22, 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (U.S. Patent No. 5,798,785) in view of Goldschmidt Iki et al. (U.S. Patent No. 6,226,444) in further view of Barton et al. (U.S. Patent No. 6,233,389) in further view of Grossman et al. (U.S. Patent No. 5,907,321) in further view of Alexander et al. (U.S. Patent No. 6,177,931).

Referring to claim 21, Hendricks, Goldschmidt Iki, Barton and Grossman disclose all of the limitations in claim 16, but fail to teach that said on-site media service data

enables said on-site media system to record a portion of said media signal on said dedicated portion of said hard disk according to subscription information.

Alexander further teaches that a user may subscribe to recording multiple episodes in a television series (**see Column 11, Lines 8-16**).

At the time the invention was made, it would have been obvious to modify the on-site media system/data, as taught by Hendricks, Goldschmidt Iki, Barton and Grossman, using the record regularly functionality in conjunction with the EPG data presented to the user, as taught by Alexander, for the purpose of providing improved viewer control of video recording of future-scheduled programming (**see Column 2, Lines 6-7 of Alexander**).

Referring to claim 22, see the rejection of claim 21.

Referring to claim 24, see the rejection of claim 21.

Referring to claim 27, Hendricks, Goldschmidt Iki, Barton and Grossman disclose all of the limitations in claim 16, but fail to teach that said on-site media service data includes information for retrieving data from an Internet site.

Alexander teaches providing information for retrieving data from an Internet site (**see Column 8, Lines 36-64**).

At the time the invention was made, it would have been obvious to modify the on-site media system/data, as taught by Hendricks, Goldschmidt Iki, Barton and Grossman,

using the Internet mode, as taught by Alexander, for the purpose of providing improved viewer interactive capabilities with the EPG (see **Column 2, Line 5 of Alexander**).

(10) Response to Argument

I. **Claims 16, 18-20, 23, 25-26, 28-29 and 41-42 are Patentable under 35 U.S.C. § 103(a) over Hendricks, Goldschmidt Iki, Barton and Grossman, because Hendricks, Goldschmidt Iki, Barton and Grossman do not teach or suggest all elements in the claims.**

Applicant argues that Goldschmidt Iki fails to teach on-site media service data that allows the user to locate a specific segment of the content data as claimed. Applicant states that the Examiner equates Goldschmidt Iki's VBI data that indicates the start/end of a commercial with Appellant's on-site media data. Not only does the Examiner equate the commercial markers in the VBI to the on-site media data, but also program markers located in the VBI. In regards to limitations stating "**wherein on-site media data includes a command from an off-site broadcaster that instructs an on-site media system to record the content data without intervention of a user**", the program markers/indicators are used to read on these limitations, as stated by the Examiner on Page 4 of the Final Rejection dated March 2, 2010. In regards to the limitations stating "**said on-site media service data further includes metadata that**

allows the user to locate a specific segment of the content data", the commercial indicators are used to read on these limitations, as stated by the Examiner on Page 4 of the Final Rejection dated March 2, 2010. The Examiner further noted that "the commercial indicators allow the system of Goldschmidt Iki to locate (per the user request) when a commercial will be aired, wherein the commercial is a segment of the content data (video program being received). Further note that the system of Goldschmidt Iki further allows the user to select a program to record and further indicate he/she wishes to record the program without commercials (see Column 8, Lines 50-60), therefore allowing the user to locate specific segments (commercials) based on the on-site media data instructing the system to avoid recording the commercials, as requested by the user". In other words, upon the user's request to display commercials (or not), commercials are located and displayed or eliminated.

The Examiner further notes that the claims limitations "said on-site media service data further includes metadata that allows the user to locate a specific segment of the content data" are broad and also read on an additional portion of Goldschmidt Iki. Note Column 8, Lines 9-44 which teach that digital broadcast data is received and provided to the user to view. This portion also teaches (along with **Figure 5**) that the digital broadcast data (**metadata**) is used to display a program guide that allows a user to locate a specific segment of the content data

Applicant notes that the Examiner has appeared to argue that Goldschmidt Iki inherently discloses the user locating specific segments and that no other section in Goldschmidt Iki teaches or suggests an on-site media service data that allows the user to locate a specific segment of the content data as claimed. However, as provided by the Examiner's rebuttal above, Goldschmidt Iki explicitly discloses multiple types of metadata that can be used to locate segments of content data, as broadly recited in the claims.

In regards to the arguments regarding the Hendricks, Barton and Grossman references, see the Examiner's rebuttal above.

II. Claims 21-22, 24 and 27 are Patentable under 35 U.S.C. § 103(a) over Hendricks, Goldschmidt Iki, Barton, Grossman and Alexander because Hendricks, Goldschmidt Iki, Barton, Grossman and Alexander do not teach or suggest all elements in the claims.

In regards to the arguments regarding claims 21-22, 24 and 27, see the Examiner's rebuttal above for teaching the claim limitations "said on-site media service data further includes metadata that allows the user to locate a specific segment of the content data".

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jason Salce

/Jason P Salce/

Primary Examiner, Art Unit 2421

September 21, 2010

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